

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION**

CIVIL NO. 2:09CV25

JAMES J. HOWARD, SR.,)	
)	
Plaintiff,)	
)	
Vs.)	<u>ORDER OF DISMISSAL</u>
)	
111TH UNITED STATES CONGRESS,)	
<i>et al.,</i>)	
)	
Defendants.)	
<hr style="width:40%; margin-left:0"/>)	

THIS MATTER is before the Court on the Magistrate Judge's Memorandum and Recommendation, filed May 20, 2009.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, the Magistrate Judge was designated to consider pending motions in the captioned civil action and to submit to this Court recommendations for the disposition of these motions.

On May 20, 2009, the Magistrate Judge filed a Memorandum and Recommendation in this case containing proposed findings of fact and conclusions of law in support of a recommendation regarding Defendants' motion to dismiss. The Plaintiff, who is proceeding *pro se*, and the

attorney for the Defendants were advised that any objections to the Magistrate Judge's findings were to be filed in writing within 10 days of service of the Recommendation; the period within which to file objections expired on June 8, 2009. No written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed findings of fact are supported by the record and that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation that the Defendants' motion to dismiss be allowed.

IT IS, THEREFORE, ORDERED that the Defendants' motion to dismiss is **ALLOWED**, and this matter is hereby **DISMISSED** for lack of subject matter jurisdiction.

Signed: June 12, 2009

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

